

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 391**

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**Introduced by Senator Ducheny  
(Coauthor: Senator Romero)**

February 21, 2007

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An act to add ~~Section 3060.9~~ *Sections 3060.9, 3069, and 3069.5* to the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as amended, Ducheny. Corrections.

Existing law gives the Board of Parole Hearings the power upon granting parole to any prisoner to impose on the parole any conditions that it may deem proper. Existing law gives the Board of Parole Hearings power to suspend or revoke any parole and to order returned to prison any prisoner upon parole.

This bill would establish a Community Corrections Program. It would allow the Board of Parole Hearings to assign a parolee who violates a condition of parole to the program in lieu of revocation of parole. This bill would allow the Board of Parole Hearings, as an alternative to ordering a parolee returned to custody upon revocation of parole, to suspend the period of revocation pending the parolee's successful completion of the program.

This bill would impose various requirements in connection with the program.

This bill would require the Department of Corrections and Rehabilitation, in consultation with the Board of Parole Hearings and the Legislative Analyst's Office, to contract with an independent consultant to evaluate the effect of the program on several factors and report the results to the Legislature on or before January 1, 2011. Until that date, the Department of Corrections and Rehabilitation and the Board of Parole Hearings would be required to annually report to the Legislature, beginning December 1, 2008, regarding the status of implementation of the program and the number of offenders assigned and participating in the programs in the preceding fiscal year.

*This bill would establish a Parole Violation Intermediate Sanctions program within the Department of Corrections and Rehabilitation. The bill would authorize certain parolees who would otherwise be referred to the Board of Parole Hearings for revocation of parole and returned to prison for a violation of parole to be admitted to the program in lieu of revocation, as specified. The program would be modeled after a collaborative court system, including a hearing officer, frequent appearances in the program by the parolee, requirements that the parolee attend treatment or rehabilitation programs, coordination between the hearing officer, parole agents, and representatives from the treatment and rehabilitation programs, and sanctions for the parolee upon failure in the program.*

*This bill would require the department, in consultation with the Board of Parole Hearings and the Legislative Analyst's Office, to report to the Legislature on the effectiveness of the Parole Violation Intermediate Sanctions program, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3060.9 is added to the Penal Code, to
- 2 read:
- 3 3060.9. (a) There is hereby created within the Department of
- 4 Corrections and Rehabilitation a Community Corrections Program.
- 5 The purpose of the program is to improve the rehabilitation of
- 6 parolees, reduce recidivism, reduce prison overcrowding, and
- 7 improve public safety through the use of intermediate sanctions
- 8 for low-level offenders who violate parole with an emphasis on
- 9 short-term commitments.

(b) For purposes of this section, the Community Corrections Program includes, but is not limited to, the following:

- (1) Counseling.
- (2) Electronic monitoring.
- (3) Half-way house services.
- (4) Home detention.
- (5) Intensive supervision.
- (6) Mandatory community service assignments.
- (7) Increased drug testing.
- (8) Participation in one or more components of the Preventing Parolee Crime Program pursuant to Section 3068.
- (9) Rehabilitation programs, such as substance abuse treatment.
- (10) Restitution.

(c) As used in this section:

(1) “Department” means the Department of Corrections and Rehabilitation.

(2) “Parole authority” means the Board of Parole Hearings.

(d) The department and the parole authority may assign to the Community Corrections Program those lower-risk offenders who would otherwise be returned to custody for a parole violation. This section shall not alter the existing discretion of the parole authority regarding the reporting by the department of parole violations or conditions of parole. In exercising its authority pursuant to paragraphs (2) and (3) of subdivision (e) and subdivision (f), the parole authority and the department in exercising its authority pursuant to paragraph (1) of subdivision (e) may determine an individual parolee’s eligibility for the Community Corrections Program by considering the totality of the circumstances including, but not limited to, the instant violation offense, the history of parole adjustment, current commitment offense, the risk needs assessment of the offender, and prior criminal history, with public safety and offender accountability as primary considerations.

(e) (1) Subject to the provisions of this section, the parole authority, in the absence of a new conviction and commitment of the parolee to the state prison under other provisions of law, may assign a parolee who violates a condition of his or her parole to the Community Corrections Program in lieu of revocation of parole.

(2) In addition to the alternatives provided in this section, the parole authority may, as an alternative to ordering a revoked parolee returned to custody, suspend the period of revocation

1 pending the parolee's successful completion of the Community  
2 Corrections Program assigned by the parole authority.

3 (3) The parole authority or the department shall not assign a  
4 parolee who has been classified by the department as included  
5 within the highest control or risk classification to the Community  
6 Corrections Program in lieu of revocation of parole.

7 (4) The parole authority shall not assign a parolee to the  
8 Community Corrections Program in lieu of revocation of parole  
9 when the parole authority has determined that the violation of the  
10 condition of parole involves commission of a serious felony, as  
11 defined in subdivision (c) of Section 1192.7, or a violent felony,  
12 as defined in subdivision (c) of Section 667.5, or involves the  
13 control of, access to, or use of a weapon.

14 (5) The department shall not establish a special condition of  
15 parole, assigning a parolee to the Community Corrections Program  
16 in lieu of initiating revocation proceedings, if the department  
17 reasonably believes that the violation of the condition of parole  
18 involves commission of a serious felony, as defined in subdivision  
19 (c) of Section 1192.7, or a violent felony, as defined in subdivision  
20 (c) of Section 667.5, or involves the control of, access to, or use  
21 of a weapon, or if regulations adopted by the parole authority  
22 require the reporting of the parole violation to the parole authority.

23 (f) A special condition of parole imposed pursuant to this section  
24 to participate in the Community Corrections Program consisting  
25 of a live-in program, home detention, electronic monitoring, or  
26 half-way house services shall not be established without a hearing  
27 by the parole authority in accordance with Sections 3004 and 3068  
28 and regulations of the parole authority. A special condition of  
29 parole providing an assignment to the Community Corrections  
30 Program that does not consist of a live-in component may be  
31 established without a hearing.

32 (g) Implementation of this section by the department is subject  
33 to the appropriation of funding for this purpose as provided in the  
34 Budget Act of 2007, and subsequent budget acts.

35 (h) The department, in consultation with the parole authority  
36 and the Legislative Analyst's Office, shall, contingent upon  
37 funding, contract with an independent consultant to conduct an  
38 evaluation regarding the effect of the Community Corrections  
39 Program on public safety, parolee recidivism, and prison and parole  
40 costs and report the results to the Legislature on or before January

1 1, 2011. Until that date, the department and parole authority shall  
2 jointly report annually to the Legislature, beginning December 1,  
3 2008, regarding the status of implementation of the Community  
4 Corrections Program and the number of offenders assigned and  
5 participating in the program in the preceding fiscal year.

6 *SEC. 2. Section 3069 is added to the Penal Code, to read:*

7 *3069. (a) There is hereby created within the Department of*  
8 *Corrections and Rehabilitation, under the Board of Parole*  
9 *Hearings, the Parole Violation Intermediate Sanctions (PVIS)*  
10 *program. The purpose of the program is to improve the*  
11 *rehabilitation of parolees, reduce recidivism, reduce prison*  
12 *overcrowding, and improve public safety through the use of*  
13 *intermediate sanctions for low-level offenders who violate parole.*  
14 *The PVIS program will allow the department to provide parole*  
15 *agents an early opportunity to intervene with parolees who are*  
16 *not in compliance with the conditions of parole and facing return*  
17 *to prison. The program will include key components used by drug*  
18 *and collaborative courts under a highly structured model, including*  
19 *close supervision and monitoring by a hearing officer, dedicated*  
20 *calendars, non-adversarial proceedings, frequent appearances*  
21 *before the hearing officer, utilization of incentives and sanctions,*  
22 *frequent drug and alcohol testing, immediate entry into treatment*  
23 *and rehabilitation programs, and close collaboration between the*  
24 *program, parole, and treatment to improve offender outcomes.*  
25 *The program is local and community based.*

26 *(b) As used in this section:*

27 *(1) "Department" means the Department of Corrections and*  
28 *Rehabilitation.*

29 *(2) "Parole authority" means the Board of Parole Hearings.*

30 *(3) "Program" means the Parole Violation Intermediate*  
31 *Sanctions program.*

32 *(c) (1) A parolee who was classified by the department as a*  
33 *low-risk offender who would otherwise be referred to the parole*  
34 *authority to have his or her parole revoked with an indicated*  
35 *incarceration period of one year or less for a parole violation shall*  
36 *be referred by his or her parole officer for participation in the*  
37 *program in lieu of parole revocation.*

38 *(2) A parolee who has been classified by the department as*  
39 *included within the highest control or risk classification shall not*

1 *be eligible for referral to the program in lieu of revocation of*  
2 *parole.*

3 *(3) If the alleged violation of parole involves the commission*  
4 *of a serious felony, as defined in subdivision (c) of Section 1192.7,*  
5 *or a violent felony, as defined in subdivision (c) of Section 667.5,*  
6 *or involves the control of, access to, or use of a weapon, the*  
7 *parolee shall not be eligible for referral to the program in lieu of*  
8 *revocation of parole.*

9 *(4) If the person was committed to prison and is on parole for*  
10 *the violation of an offense classified as a serious felony, as defined*  
11 *in subdivision (c) of Section 1192.7 or a violent felony, as defined*  
12 *in subdivision (c) of Section 667.5, or for an offense for which*  
13 *registration is required pursuant to Section 290, he or she is not*  
14 *eligible for referral to the program in lieu of revocation of parole.*

15 *(d) The department shall establish local PVIS programs within*  
16 *six geographically designated parole areas. Each local program*  
17 *shall have the following characteristics:*

18 *(1) An assigned hearing officer who is a retired superior court*  
19 *judge or commissioner and who is experienced in using the drug*  
20 *court model and collaborative court model.*

21 *(2) The use of a dedicated calendar.*

22 *(3) Close coordination between the hearing officer, parole*  
23 *authority, counsel, community treatment and rehabilitation*  
24 *programs participating in the program and adherence to a team*  
25 *approach in working with parolees.*

26 *(4) Enhanced accountability through the use of frequent*  
27 *program appearances by parolees in the program, at least one*  
28 *per month, with more frequent appearances in the time period*  
29 *immediately following the initial referral to the program and*  
30 *thereafter in the discretion of the hearing officer.*

31 *(5) Reviews of progress by the parolee as to his or her treatment*  
32 *and rehabilitation plan and abstinence from the use of drugs and*  
33 *alcohol through progress reports provided by the parole agent as*  
34 *well as all treatment and rehabilitation providers.*

35 *(6) Mandatory frequent drug and alcohol testing.*

36 *(7) Limited jail sanctions imposed after a hearing in which it*  
37 *is found the parolee failed treatment and rehabilitation programs*  
38 *or continued in the use of drugs or alcohol while in the program,*  
39 *as follows: two days incarceration in a county jail for the first*  
40 *violation, four days for the second violation, six days for the third*

1 violation and 12 days for the fourth violation. Upon the fifth  
2 violation a parolee will be referred to the parole authority for  
3 parole revocation.

4 (8) A problem-solving focus and team approach to  
5 decisionmaking.

6 (9) Direct interaction between the parolee and the hearing  
7 officer.

8 (10) Accessibility of the hearing officer to parole agents and  
9 parole employees as well as treatment and rehabilitation providers.

10 (11) Upon successful completion of the program, the parolee  
11 shall continue on parole, or be granted other relief as shall be  
12 determined in the sole discretion of the parole authority.

13 (e) For purposes of this section, the local programs shall be  
14 developed as follows:

15 (1) The parole authority is directed to convene in each county  
16 where the programs are selected to be established, all local  
17 stakeholders, including, but not limited to, a retired superior court  
18 judge or commissioner, designated by the Administrative Office  
19 of the Courts, who shall be compensated by the department at the  
20 present rate of pay for retired judges and commissioners, local  
21 parole agents and other parole employees, the district attorney,  
22 the public defender, an attorney actively representing parolees in  
23 the county and a private defense attorney designated by the public  
24 defenders association, the county director of alcohol and drug  
25 services, behavioral health, mental health, and any other local  
26 stakeholders deemed appropriate. Specifically, persons directly  
27 involved in the areas of substance abuse treatment, cognitive skills  
28 development, education, life skills, vocational training and support,  
29 victim impact awareness, anger management, family reunification,  
30 counseling, residential care, placement in affordable housing,  
31 employment development and placement are encouraged to be  
32 included in the meeting.

33 (2) The county stakeholders will develop a plan that is consistent  
34 with this section. The plan shall address at a minimum the  
35 following components:

36 (A) The method by which each parolee eligible for the program  
37 shall be referred to the program.

38 (B) The method by which each parolee is to be individually  
39 assessed as to his or her treatment and rehabilitative needs and  
40 level of community and court monitoring required, participation

1 of counsel, and the development of a treatment and rehabilitation  
2 plan for each parolee.

3 (C) The specific treatment and rehabilitation programs that  
4 will be made available to the parolees and the process to assure  
5 that they receive the appropriate level of treatment and  
6 rehabilitative services.

7 (D) The criteria for continuing participation in, and successful  
8 completion of, the program, as well as the criteria for termination  
9 from the program and return to the parole revocation process.

10 (E) The development of a program team, as well as a plan for  
11 ongoing training in utilizing the drug court and collaborative court  
12 nonadversarial model.

13 (f) (1) If a parolee is referred to the program by his or her  
14 parole agent, as specified in this section, the hearing officer in  
15 charge of the local program to which the parolee is referred shall  
16 determine whether the parolee will be admitted to the program.

17 (2) A parolee may be excluded from admission to the program  
18 if the hearing officer determines that the parolee poses a risk to  
19 the community or would not benefit from the program. The hearing  
20 officer may consider the history of the offender, the nature of the  
21 committing offense, and the nature of the violation. The hearing  
22 officer shall state its findings, and the reasons for those findings,  
23 on the record.

24 (3) If the hearing officer agrees to admit the parolee into the  
25 program, any pending parole revocation proceedings shall be  
26 suspended contingent upon successful completion of the program  
27 as determined by the program hearing officer.

28 (4) Participation in the program will not be construed to in any  
29 way affect the parolee's term of parole.

30 (g) A special condition of parole imposed as a condition of  
31 admission into the program consisting of a live-in program, home  
32 detention, electronic monitoring, or half-way house services shall  
33 not be established without a hearing in front of the hearing officer  
34 in accordance with Sections 3004 and 3068 and regulations of the  
35 parole authority. A special condition of parole providing an  
36 admission to the program that does not consist of a live-in  
37 component may be established without a hearing.

38 (h) Implementation of this section by the department is subject  
39 to the appropriation of funding for this purpose as provided in the  
40 Budget Act of 2008, and subsequent budget acts.



1     *SEC. 3. Section 3069.5 is added to the Penal Code, to read:*

2     *3069.5. (a) The department, in consultation with the parole*  
3     *authority and the Legislative Analyst's Office shall conduct an*  
4     *evaluation of the PVIS program.*

5     *(b) The department shall sample several parole units in which*  
6     *the program has been added to examine the program's impact*  
7     *upon the supervision, control, and sanction of parolees under the*  
8     *jurisdiction of the sampled parole units. These results shall be*  
9     *compared with a control group of comparable parole populations*  
10    *that do not have PVIS program services.*

11    *(c) The department shall compare parolees who participated*  
12    *in the program with similar parolees who did not receive PVIS*  
13    *program services as measured by employment, drug use based on*  
14    *positive tests, and recidivism.*

15    *(d) The cost effectiveness of the PVIS program shall also be*  
16    *evaluated as measured by prison and jail bed days saved as a*  
17    *result of the program as compared with parolees who did not*  
18    *receive program services.*

19    *(e) The report shall assess the impact of an expansion of the*  
20    *PVIS program to additional parole units on public safety, parolee*  
21    *recidivism, and prison and parole costs, and make*  
22    *recommendations as to improve parolee outcomes.*

23    *(f) A final report shall be due to the Legislature on or before*  
24    *January 1, 2012. Until that date, the department and parole*  
25    *authority shall jointly report annually to the Legislature, beginning*  
26    *December 1, 2009, regarding the status of implementation of the*  
27    *PVIS program and the number of offenders assigned and*  
28    *participating in the program in the preceding fiscal year.*